STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Timothy G. Abrahamson, Petitioner-Appellant, **v.** **Dallas County Board of Review,** Respondent-Appellee.	**ORDER** **Docket No. 09-25-0768** **Parcel No. 15-35-226-010**

On November 19, 2009, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The appellant, Timothy G. Abrahamson, requested this appeal be considered without hearing and submitted evidence in support of his petition. He was self-represented. The Dallas County Board of Review designated Dallas County Attorney Wayne Reisetter as its representative. It also submitted evidence. The Appeal Board now having reviewed the record and being fully advised, finds:

Findings of Fact

Timothy G. Abrahamson, owner of property located at 28841 Hickory Ridge Drive, Van Meter, Iowa, appeals from the Dallas County Board of Review decision reassessing his property. The real estate was classified residential for the January 1, 2009, assessment and valued at $1,211,480; representing $165,000 in land value and $1,046,480 in improvement value.

Mr. Abrahamson protested to the Board of Review on four grounds: (1) that the property's assessment is not equitable under Iowa Code section 441.37(1)(a); (2) that it is assessed for more than authorized by law under section 441.37(1)(b); (3) there is an error in the assessment under section 441.37(1)(d); and (4) that there has been a downward change in value since the last assessment under sections 441.37(1) and 441.35(3). In response to the protest, the Board of Review notified Mr.

Abrahamson that the January 1, 2009, assessment would be reduced. The Board of Review reassessed the property at $895,730; representing $165,000 in land value and $730,730 in improvement value.

Mr. Abrahamson then filed an appeal with this Board on the grounds of (1) inequity, (2) error in the assessment, and (3) downward change in value. He seeks $138,250 in relief. Mr. Abrahamson values the property at $757,480.

We note, that although Mr. Abrahamson checked the box on this Board's form that indicates a protest on downward change in value, in an assessment year, this ground is akin to a challenge on market value.

The subject property is a one-story, 3514 square-foot frame dwelling built in 2006 with a 1967 square-foot attached garage. It is located on a two-acre site. The subject property was a foreclosure, and was listed for sale for approximately eighteen months. Mr. Abrahamson submitted evidence of a purchase agreement dated January 2009. The agreement between MBL Property Management and Abrahamson was for $500,000 cash and the trade of Abrahamson's other residential property located at 33080 Fox Creek Drive, Waukee, Iowa.

An appraisal was conducted of the subject property when Mr. Abrahamson purchased it. Mr. Abrahamson submitted this appraisal, dated January 17, 2009, as evidence. The appraisal was done for loan purposes by David R. Conn, of David Conn Appraisal. Mr. Conn valued the subject property at $930,000. Mr. Abrahamson, however, disagrees with the value determined in the appraisal.

Mr. Abrahamson pointed out what he believes to be many flaws in the appraisal by his bank. He noted a laundry list of things he believes are incorrect such as several items were not in the home but are mentioned in the appraisal including audio items, lighting fixtures, several broken items, security systems, and some appliances. Mr. Abrahamson also disagreed with the appraisal because it did not use any foreclosed homes as comparable properties. We note that, typically, an appraisal will

not compare other foreclosures to determine market value because a foreclosure sale is not considered an arms-length transaction for assessment purposes unless it can be adjusted.

Mr. Abrahamson also believed that the appraisal of the Fox Creek property for $330,000 is incorrect, and he did not agree to this amount as being part of his contract. To support this belief, Mr. Abrahamson submitted as evidence a letter from realtors Ron and Pat Robbins that estimated the Fox Creek property was worth between $250,000 and $275,000. Mr. Abrahamson also produced a letter from realtor Ralph Stonehocker that estimated the value of the Fox Creek property at $292,600. Mr. Abrahamson also noted that the Fox Creek property was assessed for $257, 480. Further, he points out that the Fox Creek property sold in July 2009 for $265,000. He believes this sale reflects the true value of that property.

Based on this information and his own interpretation of the appraisal and sales, it is Mr. Abrahamson's opinion, that the assessed price of the subject property should be $500,000 cash plus the recent sale price of his Fox Creek property which was $265,000 for a total assessed value of the subject property at $765,000. We understand one of Mr. Abrahamson's main arguments rests with the fact that his transaction included a traded property and the value of this traded property. First, however, we note again that a foreclosure sale, no matter what the provisions may be, is abnormal for assessment purposes. Further, although Mr. Abrahamson believes that the sale of the Fox Creek property shows the market value of that property to be only $265,000 rather than $330,000, this Board notes that a sale to or from a bank is considered an abnormal sale. Therefore, neither of these values – the sale of the subject property nor the sale of Fox Creek – conclusively establish the market value of the subject property for assessment purposes.

The Board of Review in response to Mr. Abrahamson's claims to this Board that he has failed to provide evidence that the subject property was not equitably assessed with other property. It further contends that Mr. Abrahamson did not prove an error in the assessment particularly because the

independent appraiser who did the interior inspection did not list any of the items that Mr. Abrahamson says were not present at the time of purchase. Finally, the Board of Review points out that competent evidence was not presented to prove a downward change in value (or market value). The subject property was purchased on foreclosure directly from the bank, and in the Board of Review's opinion, the property was not being aggressively marketed at the time of sale. The appraisal done for the bank had a range of values from $901,600 to $1,140,170, all which are higher than the current assessed value. The Board of Review also notes that a comparable property just north of the subject property is listed for sale at $1,100,000.

Mr. Abrahamson protested to the Board of Review and this Board on equity, however, he did not provide sufficient evidence to prove this claim. Mr. Abrahamson also appealed to this Board on the ground of error. The claim of error is related to the errors of opinion in the appraisals. This claim is not supported by the evidence. We agree with the Board of Review that the appraisal does not appear to list any of the items that Mr. Abrahamson claims were not present at the time of purchase. Finally, Abrahamson contended there had been a downward trend in value. As we have noted, this claim in an assessment year is akin to a claim that the assessment is for more than authorized by law. The evidence submitted clearly indicates that the property was a foreclosure action purchased from the bank that renders the sale to be an abnormal sales condition. Further, a property that includes a trade of a property is also an abnormal sales condition. Although Mr. Abrahamson points out flaws in the subject property, he does not reconcile the flaws or mistakes to an actual value of the property. Therefore, this claim is not supported by the evidence.

Reviewing all the evidence, we find that the evidence is insufficient to prove any of Mr. Abrahamson's claims.

Conclusions of Law

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. Iowa Code § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

Mr. Abrahamson first challenged his assessment based on inequity. To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

> "(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a

> higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

Id. at 579-580. The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). Mr. Abrahamson has failed to provide sufficient evidence to prove this claim.

Mr. Abrahamson also challenged his assessment claiming that there was an error in the assessment. This claim is based on the fact that an appraisal conducted for loan purposes included items that were not present in the home in its final determination of value. We hold, for reasons stated in our findings of fact, Mr. Abrahamson has failed to support this claim.

Finally, Mr. Abrahamson challenged his assessment on the basis that there had been a downward change in value of the property. In a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n. v. Carroll County Bd. of Review,* 2006 WL 1750300 (Iowa Ct. App. 2006). In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton,* 529 NW2d 275, 277 (Iowa 1995).

Mr. Abrahamson asserts the 2008 purchase price should be the 2009 assessed value. In *Riley v. Iowa City Bd. of Review,* 549 N.W.2d 289, 290 (Iowa 19969), the Court determined "[it] is clear from the wording of Iowa Code section 441.21(1)(b) that the sales price of the subject property in a normal sales transaction, just as the sale price of comparable property, is to be considered in arriving at market value but does not conclusively establish value." Since Mr. Abrahamson's sale was considered an abnormal transaction, we do not consider it to be indicative of the property's fair market value and do not rely on this evidence to show over-assessment which was the basis for his claim. Without this alleged purchase price, Mr. Abrahamson has provided no other evidence to show the market value of

his property other than the appraisal for lending purposes. We note that this appraisal actually values the property higher than the current assessed value.

We, therefore, affirm the Timothy G. Abrahamson property assessment as determined by the Board of Review. The assessment of the subject property as of January 1, 2009, is $895,730; representing $165,000 in land value and $730,730 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Dallas County Board of Review is affirmed.

Dated this 17 day of December, 2009.

Richard Stradley, Presiding Officer

Jacqueline Rypma, Board Member

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Certificate of Service
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on 12-17, 2009
By: ✓ U.S. Mail ___ FAX
___ Hand Delivered ___ Overnight Courier
___ Certified Mail ___ Other
Signature